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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,854	06/18/2001	Gilad Odinak	WING-1-1016	1886

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EXAMINER
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GARG, YOGESH C

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/884,854

Applicant(s)

ODINAK ET AL.

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 1/2. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS), PAPER # 1 1/2 submitted on 04/14/2003 was filed after the mailing date of the First action on merits on 04/29/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

### ***Response to Amendment***

2. The Amendment, paper # 7, received on 10/2/2003, is acknowledged and entered. Claims 1, 11, 27, 33, 34, 35, and 44 have been amended. Claims 1 through 54 are pending in the application.

### ***Response to Arguments***

3. Applicant's arguments filed on 10/2/2003 have been fully considered but they are not persuasive for following reasons:

The applicant has consistently argued on pages 14-20 of the amendment that Malackowski teaches using a contact information to order a product and therefore it does not anticipate the claimed invention in the independent claims 1, 11, 19, 27, 37,

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44, 47, 48, and 49 (see amendment, pages 14-20). The examiner respectfully disagrees as the rejected claims 1, 11, 19, 27, 37, 44, 47, 48, and 49 do not recite the features upon which applicant relies (i.e., do not specify as not to use a contact information to order a product or as not to use a wireless telephone call in order to seek fulfillment of the order.). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The applicant argues that claims 1, 11, 27, 33, 34, 35, and 44 have been amended to clarify that the confirmation message suitably acknowledges the request with or without a transaction being completed (see amendment, page 19). Since this amendment merely broadens the scope of the claims 1, 11, 27, 33, 34, 35, and 44 it does not effect the rejection made in the earlier office action.

With reference to the applicant's arguments that Malackowski does not teach wirelessly transmitting content associated with the radio broadcast over a data network for presenting content and allowing for the recording of requests by a user (see amendment page 19, lines 14-16), the examiner does not agree. Malackowski does teach wirelessly transmitting content associated with the radio broadcast over a data network for presenting content and allowing for the recording of requests by a user (see at least col.2, line 22-col.3, line 12). Here, after listening to an advertiser's message in the radio broadcast the details related to the advertised message, such as shopping, food, lodging, gas etc. are provided to the car occupant on a wireless network. Since Malackowski teaches providing prospects with the requested services, such as the

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mailing of products/service information to the home or business it would be inherent to record the requests of user.

In view of the above, the rejection of all independent claims 1, 11, 19, 27, 37, 44, 47, 48, and 49 is maintained. Since claims 2-7, 9-10, 12-15, 17-18, 20-23, 25-26, 28-33, 35-36, 38-40, 42-43, 45-46, 53-54 depend on independent claims 1, 11, 19, 27, 37, 44, 47, 48, and 49 their rejection is also maintained.

Since the rejection of all independent claims 1, 11, 19, 27, 37, 44, 47, 48, and 49 is maintained for reasons as analyzed and discussed above the rejection of claims 8, 16, 24, 34, 41, and 52 under 35 U.S.C. 103 (a) as being unpatentable over Malackowski in view of Brizendine is also maintained.

This is a final rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-15, 17-23, 25-33, 35-40, 42-51, and 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Malackowski et al. (US Patent 5,867,780), hereinafter, referred to as Malackowski.

With regards to claims 1-7, and 9-10 Malackowski teaches a method comprising: receiving a radio broadcast at a vehicle; wirelessly transmitting content from a server to the vehicle via a data network based on radio broadcast information associated with the received radio broadcast; presenting content over a user interface at the vehicle; recording any requests made by a user based on the presented content; wirelessly transmitting the recorded requests to the server over the data network; processing each sent request, wherein processing comprises generating a confirmation message upon completing a transaction based on the request; wirelessly transmitting the generated confirmation message to the vehicle over the data network; and presenting the sent confirmation message over the user interface, further comprising wirelessly transmitting vehicle information- identifying vehicle location and direction of travel- from the vehicle to the server over the data network, wherein the content transmitted from the server to the vehicle via a data network is based on radio broadcast information associated with the vehicle information, wherein presenting comprises presenting at least a portion of the content or the message audibly, or displaying visually at least a portion of the content or the message, wherein recording comprises recording a phonation, wherein processing comprises performing voice recognition processing of the phonation, wherein completing comprises: contacting a business system; and sending information from the business system to the server relating to the request, wherein the confirmation information comprises at least a portion of the information sent by the business system, and wherein a recorded request is a request to purchase an item offered for purchase in one or more of the received radio broadcast or the sent content (see at least, col.2, line

22-col.3, line 12, "*....a prospect driving and listening to a radio broadcast will be prompted to dial....will utilize their cellular phone to seek out additional information....radio advertising....prospects can be provided with a menu of additional customer services....*", col.4, line 10-col.8, line 6, "*.....FIG.1 provides a process overview of the present invention.....an audio message from the radio....manual input to a telephone...call may be initiated by automatic processing.....switch must recognize the caller seeking to utilize the system.....recognition on the subscriber identity and the subscriber location.....By means of an Integrated Voice Response the mobile wireless subscriber is thus able to obtain information and/or fulfillment service.....broadcast radio....The location of the mobile wireless terminal will be computed by a processor and special software permits a display of the cellular service area containing the terminal.....FIG.4 describes the initiation of the wireless call.....FIG.5 describes the integration of the wireless telephone or specifically the mobile wireless transmitter and receiver 210 to a vehicle transporting the caller.....the wireless telephone be connected by a hardwire interface to a vehicle's video terminal 214 to allow a display of telephony functions.....display of video messages sent by wireless means to the user.....*", col.9, line 28-col.10, line 46, "*.....FIG.6 further describes the functions of the MTSO of the PWN ...*", col.12, lines 6-56, "*.....FIG.10 further describes the components of the invention related to the target.....*").

With regards to method, system and apparatus claims 11-15, 17-23, 25-33, 35-40, 42-51, and 53-54, their limitations correspond to the limitations of method claims 1-7, and 9-10 and are therefore analyzed and rejected based on the same rationale.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 16, 24, 34, 41, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malackowski, and further in view of Brizendine et al. (US Patent 6,484,147), hereinafter, referred to as Brizendine.

With regards to claims 8, 16, 24, 34, 41, and 52, Malackowski teaches a method, a system, and an apparatus, as disclosed in claims 1, 11, 19, 27, 37, and 49 respectively and analyzed above. Malackowski, further, teaches contacting a variety of business systems to carry out a variety of services, such as mailing of product/service to home/business, direct product sales, polling, participating in surveys, contacting a retailer, etc. (see at least, col.3, lines 1-12) and also use of an encryption system to secure financial data transmission (see at least, col.13, lines 42-47) which clearly indicates that financial data is communicated and financial data can include transfer of funds. Malackowski does not disclose contacting a bank system to execute a monetary transfer based on user information and the request. However, in the field of same endeavor, Brizendine teaches contacting a bank and executing a money transfer based on user information and request via a communication network (see at least, col.3, lines 12- 43, col.13, lines 4-30). In view of Brizendine, it would have been obvious to a person



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of an ordinary skill in the art at the time of the invention to combine Brizendine's feature of contacting a bank and executing a money transfer based on user information and request via a communication network with Malackowski's access free wireless telephony fulfillment service system in a vehicle, which is like any other node on a communication network, because to allow the passengers in the vehicle to communicate with any other server including that of a bank and execute money transfer requests as explicitly disclosed in Brizendine (see at least col.13, lines 4-30).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Yogesh C Garg  
Examiner  
Art Unit 3625

YCG  
December 27, 2003

  
Jeffrey A. Smith  
Primary Examiner